

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - Prosecution Department – Representation of Sri J. Srinivas Reddy, Asst. Public Prosecutor, V A.J.M.C. Court, Guntur – Notional seniority on par with his batchmates of 1996 – Objections called for – Notional seniority on par with his batchmates of 1996 assigned – Orders - Issued.

LAW (LA&J-HOME-COURTS.A2) DEPARTMENT

G.O.Ms.No.161

Dated:15-10-2008.
Read the following:-

1. Govt.Memo.No.16069/Cts.C/95-2, dt.21.8.1995.
2. G.O.Ms.No.74, Home (Cts.C) Dept., dt.12.6.1996.
3. Hon'ble A.P.A.T., orders in OA.No.3261/06 filed By Sri J. Srinivas Reddy, dt.18.2.1998.
4. G.O.Ms.No.38, Law (LA&J-Home-Courts.A2) Dept., dt.8.3.1999.
5. G.O.Ms.No.234, Law (LA&J-Home-Courts.C) Dept., dt.25.11.1996.
6. Representation of Sri J. Srinivas Reddy, A.P.P., dt.24.1.2005/13.5.05.
7. Hon'ble A.P.A.T., orders in OA.No.2503/07 dt.1.5.2007.
8. From the Director of Prosecutions, A.P., Hyderabad Lr.No.668/B1/2007, dt.21.5.2007.
9. Govt.Memo.No.18168/Cts.A/A2/07, dt.27.12.07.
10. Notices to the affected persons vide D.O.P., Lr.No.668/B1/2007, dt.24.6.2008.
11. From the Director of Prosecutions, A.P., Hyderabad Lr.No.668/B1/2007, dt.4.8.2008 along with objections of certain A.P.Ps.

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O R D E R:

Whereas, in the reference 1st read above, Government have requested the Director of Prosecutions, A.P., Hyderabad to send necessary proposals to the Government for appointment of the Asst. Public Prosecutors in the State and posting them in various zones as per the selection list furnished by the Director General of Police, Hyderabad in which the name of Sri J. Srinivasa Reddy, found place at Sl.No.17 in Zone-III. The above selection list was based on the notification issued in the year 1992. Accordingly on the proposal of Director of Prosecutions, A.P., Hyderabad appointment of Assistant Public Prosecutors in the State were notified vide G.O.Ms.No.74, Home (Cts.C) Dept., dt.12.6.1996 without the name of Sri J. Srinivasa Reddy, as it came to the notice of the Government, that he had suppressed certain information while submitting the attestation forms.

2. And whereas, Sri J. Srinivasa Reddy aggrieved with the above orders, has filed O.A.No.3261/1996 in the Hon'ble A.P. Administrative Tribunal, Hyderabad with a request to direct the respondents to appoint him as Asst. Public Prosecutor. In this O.A. the Hon'ble A.P. Administrative Tribunal, Hyderabad, observed as follows:

“Counter is filed. In the counter it is contended that the applicant was involved in a Criminal Case and the applicant suppressed the material information against Column No.14 in the application and also in Col.No.5 of the Attestation Form about his involvement in a Criminal Case. Therefore, the applicant is not entitled for appointment.

Heard both sides. The learned G.P., submitted that involvement in a Criminal Case is sufficient to withhold appointment.

The applicant was involved in a Criminal Case in the year 1993, whereas he submitted an application for the post of APPO in the year 1992. Hence the question of mentioning about his involvement in Criminal Case does not arise. Nextly it is the contention of the respondent that in the Attestation Form at Col.No.5 he has not mentioned about his arrest or conviction in any criminal case. It is the case of the petitioner that in criminal case he was not arrested and there was no conviction. Hence he has not stated anything regarding that criminal case in Column No.5. It was further contended that

P.T.O.,

criminal case was filed by his Sister-in-Law due to family disputes and subsequently he was acquitted. Thus there is no material to prove that the petitioner suppressed any aspect of his involvement in Criminal case. Hence in the circumstances, we feel that it is a fit case to accept the contention of the applicant. Hence we allow the application and respondents are directed to give appointment as APPO to the applicant.

The O.A. is disposed of accordingly.

3. Consequent to the above direction of Hon'ble A.P. Administrative Tribunal, Hyderabad, Government vide G.O.Ms.No.38, Law (LA&J-Home-Courts.A2) Dept., dt.8.3.1999, Sri J.Srinivasa Reddy was appointed as Asst. Public Prosecutor, in Zone=III and in the said G.O. detailed elaboration is given about the grounds on which the Hon'ble A.P. Administrative Tribunal, Hyderabad, gave directions and the reasons for his appointment.

4. And whereas, in between G.O.Ms.No.74, Home (Cts.C) Dept., dt.12.6.96 and G.O.Ms.No.38, Law (LA&J-Home-Courts.A2) Dept., dt.8.3.99, (9) Asst. Public Prosecutors were appointed vide G.O.Ms.No.234, L.A. & J (Courts-C) Dept., Dt:25.11.1996.

5. As the matter stood at this stage, Sri J. Srinivasa Reddy, Asst. Public Prosecutor, Special Mobile (PCR) Court, Ongole, has submitted representations Dt:24.01.2005 and 13.05.2005 requesting, to place him in the seniority list as per his rank secured in written test as well as interview with all consequential benefits such as seniority, arrears of pay by amending the seniority list of Asst. Public Prosecutor in Zone-III. Simultaneously, he approached the Hon'ble A.P. Administrative Tribunal, Hyderabad, vide O.A.No.2503/2007 requesting to direct the respondents to consider his case for promotion to the post of Senior Asst. Public Prosecutor by fixing his seniority in the existing vacancy by considering his representation dt.13.5.2005. The Hon'ble A.P. Administrative Tribunal, Hyderabad, vide its orders dt.1.5.07, directed the respondents as follows:

"Pending disposal of the O.A. there shall be a direction to the respondents to consider and pass appropriate orders on the representation of the applicant dated 13.5.2005, within a period of 4 weeks from the date of receipt of a copy of this order, not withstanding the pending of this application, on the file of the Tribunal."

6. Government have consulted General Administration (Ser.D) Dept., who have opined **"that Sri J. Srinivas Reddy appeared for the selection process in the year 1992, is ranking should be determined by the recruiting agency and such ranking shall not be disturbed. The inter-se-seniority shall be as per ranking given by the recruiting agency among the direct recruits. This is an accordance in Rule 33 (b) of A.P.S and S.S.1996."**

7. Government examined the issue, and took a provisional decision to fix the notional seniority of Sri J. Srinivasa Reddy, on par with his batchmates of 1996 at appropriate place by giving notices to the affected persons in term of Rule 24 of A.P. State and Subordinate Service Rules 1996. Accordingly the Director of Prosecutions, has been requested to issue notices to the affected persons in terms of the said Rule, vide Memo dt.27.12.2007, who in turn obtained their representations/ objections and furnished the same to Government.

8. The Director of Prosecutions, A.P., Hyderabad issued notices to the (8) persons in terms of the said Rule. The said (8) persons submitted their representations to the Government through Director of Prosecutions, A.P., Hyderabad.

9. Among the (8) candidates Sri P. Sheshaiah and Smt. P. Susheela Gopal have informed that they do not have objection to fix the seniority of Sri J. Srinivas Reddy in accordance with service rules.

10. Smt. S. Bharathi has informed that she has no objection to fix the seniority of Sri J. Srinivas Reddy at the end point of 1996 batch of A.P.P., seniority and beyond her seniority.

11. Sri M. Surender, Sri Inna Reddy, Sri P. Madhusudhan Rao, has requested for the following documents.

- i) O.A.No.3261/1996 and order of Hon'ble A.P. Administrative Tribunal, Hyderabad.
- ii) G.O.Ms.No.38, Law (LA&J-Home-Courts.A2) Dept., dt.8.3.1999.
- iii) Application of Sri J. Srinivas Reddy, A.P.P., dt.24.1.2005 addressed to Government.
- iv) Govt.Memo.No.18163/Cts.A/07, of Law (LA&J-Home-Courts.A2) Dept., dt.27.12.2007.

12. Sri S.R.A.Rosdar have informed that he has no objection to fix the seniority of Sri J. Srinivas Reddy at the end of the batchmates of 1996. However he has also requested to furnish the information on i) the rank secured by Sri J. Srinivas Reddy in the selection; ii) The reason as to why he was not selected as A.P.P. in the year 1996; iii) the contentions of Sri J. Srinivas Reddy in OA.No.3261/2006; and iv) the place where the name of Sri J. Srinivas Reddy is proposed to be fixed on par with the batchmates of 1996.

13. Further as per the ranking list communicated to the Director of Prosecutions, A.P., Hyderabad through Memo.No.16069/Courts.C/95-2, dt.21.8.1995, Sri P. Sessaiah, Smt. G.Susheela Gopal and Sri G. Ramesh Babu are found to be seniors to Sri J. Srinivas Reddy as such their objections, if any, need not be considered.

14. Smt. S. Barathi and Sri S.R.A.Rosdar have expressed that they have no objection if Sri J. Srinivas Reddy is assigned the notional date of seniority at the end of 1996 batch which is not tenable as per the service rules. Further Sri S.R.A.Rosdar Sri M. Surender, Sri Inna Reddy, Sri P. Madhusudhan Rao, have sought for information mentioned in para (X) above which is as follows:

- i) with regard to OA.No.3261/96 it is submitted that Sri J. Srinivas Reddy has filed the said O.A., in Hon'ble A.P. Administrative Tribunal, Hyderabad, seeking a directions for his appointment as A.P.P., as per notification dt.12.10.1992. In this O.A. the Hon'ble A.P. Administrative Tribunal, Hyderabad, observed as follows:

“ Counter is filed. In the counter it is contended that the applicant was involved in a Criminal Case and the applicant suppressed the material information against Column No.14 in the application and also in Col.No.5 of the Attestation Form about his involvement in a Criminal Case. Therefore, the applicant is not entitled for appointment.

Heard both sides. The learned G.P., submitted that involvement in a Criminal Case is sufficient to withhold appointment.

The applicant was involved in a Criminal Case in the year 1993, whereas he submitted an application for the post of APPO in the year 1992. Hence the question of mentioning about his involvement in Criminal Case does not arise. Nextly it is the contention of the respondent that in the Attestation Form at Col.No.5 he has not mentioned about his arrest or conviction in any criminal case. It is the case of the petitioner that in criminal case he was not arrested and there was no conviction. Hence he has not stated anything regarding that criminal case in Column No.5. It was further contended that criminal case was filed by his Sister-in-Law due to family disputes and subsequently he was acquitted. Thus there is no material to prove that the petitioner suppressed any aspect of his involvement in Criminal case. Hence in the circumstances, we feel that it is a fit case to accept the contention of the applicant. Hence we allow the application and respondents are directed to give appointment as APPO to the applicant.

The O.A. is disposed of accordingly.”

- ii) G.O.Ms.No.38, Law (LA&J-Home-Courts.A2) Dept., dt.8.3.1999 is a G.O., issued consequent to the above direction of A.P.A.T., appointing Sri J. Srinivas Reddy as Asst. Public Prosecutor, in Zone-III. In the said G.O., detailed elaboration is given about the grounds on which A.P. Administrative Tribunal, Hyderabad, gave directions and the reasons for his appointment.
- iii) Sri J. Srinivas Reddy application dt.24.1.2005 is with regard to fixation of his seniority as per the rank secured by him in the raking list of SLPRB in the year 1992 and as per directions of Hon'ble A.P. Administrative Tribunal, Hyderabad, judgment in OA.No.3261/96 dt.18.2.98.
- iv) Govt.Memo.No.18163/Cts.A/07 of Law (LA&J-Home-Courts.A2) Dept., dt.27.12.2007 is the one addressed to Director of Prosecutions, A.P., Hyderabad informing the provisional decision of the Government to notionally assign seniority to Sri J. Srinivas Reddy as per the ranking secured by him in the recruitment done against notification dt.12.10.92.

15. While examining the representations, it is noticed that Sri S.R.A.Rosdar, Sri M. Surender, Sri P. Madhusudan Rao, Smt. S.Bharathi and Sri Inna Reddy, Asst. Public Prosecutors have not figured in the Government Memo dt.21.8.1995, as these five persons were not selected by the recruiting agency in the first spell of selection list communicated by the DGIGP, (Recruiting Agency presently known as SLPRB), basing on which the appointment were issued to Sri P. Sessaiah, Smt. G.Susheela Gopal and Sri G. Ramesh Babu vide G.O.Rt.No.74, Home (Cts.C) Dept., dt.12.6.96. But appointment to Sri J. Srinivas Reddy was deferred in view of suppression of facts in the attestation form. Sri S.R.A.Rosdar, Sri M. Surender, Sri P. Madhusudan Rao, Smt. S.Bharathi and Sri Inna Reddy were recruited subsequently basing on an additional requisition sent by the Director of Prosecutions, A.P., Hyderabad to Government indicating further vacancies of Asst. Public Prosecutors that arose subsequently during the period from 1992 to 1996, vide G.O.Rt.No.234, Home (Cts.C) Dept., dt.25.11.96 basing on the additional selection list sent by the DGIGP, (Recruiting Agency presently known as SLPRB). As such though these five Asst. Public Prosecutors were recruited from the same notification, viewed from any angle they can not be treated as the batchmates of Sri J. Srinivas Reddy nor they found to be seniors as they were recruited basing on an additional requisition sent by the Director of Prosecutions, A.P., Hyderabad for the additional vacancies that arose during the period from the date of first notification in 1992 to the date of selection in 1996. As such the objections of these five Asst. Public Prosecutors, if any would be untenable of acceptance.

16. It is felt that the information asked by Smt. S. Bharathi, Sri S.R.A.Rosdar, Sri M. Surender, Sri Inna Reddy, Sri P. Madhusudhan Rao which is indicated above is not at all helpful to the applicants in putting forth any valid objections to assigning notional seniority to Sri J. Srinivas Reddy on par with his batchmates as per the ranking secured by him in recruitment of Asst. Public Prosecutors took place with reference to the notification dt.12.10.92.

17. Hence, Government have examined the entire issue and after consideration the objections raised by the certain Asst. Public Prosecutors have decided to place Sri J. Srinivasa Reddy as per his ranking in the selection list in zone-III communicated vide Govt.Memo.No.16069/Cts.C/95-2, dt.21.8.1995. Accordingly in relaxation of Rule 33(a) of A.P.State and Subordinate Service Rules, 1996, Government hereby assign notional seniority to Sri J.Srinivas Reddy duly placing his name below Smt.B.Ratna Kumari in the category of Assistant Public Prosecutor, in the list communicated to Director of Prosecutions vide Government Memo.No.16069/Courts-C1/95-2, Dt:21.08.1995.

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18. The Director of Prosecutions, A.P., Hyderabad is requested to take further necessary action in the matter.

[BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH]

V. SURI APPA RAO,
SECRETARY TO GOVERNMENT (I/C),
LEGISLATIVE AFFAIRS & JUSTICE,

To
The individual through
Director of Prosecutions, A.P., Hyderabad
The Director of Prosecutions, A.P., Hyderabad
SF/SC.

// FORWARDED BY :: ORDER //

SECTION OFFICER.